

Group Briefing

October 2018

Irish merger control thresholds to increase from 1 January 2019

Ireland Client Service Law Firm of the Year 2018
Chambers Europe Awards

Ireland Law Firm of the Year 2018
International Financial Law Review (IFLR)
Europe Awards

Advised on Equity Deal of the Year 2018 – Allied Irish Banks IPO
International Financial Law Review (IFLR)
Europe Awards

Ireland Law Firm of the Year 2018
Who's Who Legal

Ireland Law Firm of the Year 2017
Chambers Europe Awards

Best Firm in Ireland 2018, 2017 & 2016
Europe Women in Business Law Awards

Best National Firm for Women in Business Law 2018, 2017 & 2016
Europe Women in Business Law Awards

Best National Firm Mentoring Programme 2018, 2017 & 2016
Europe Women in Business Law Awards

Best National Firm for Minority Women Lawyers 2018
Europe Women in Business Law Awards

Under Irish merger control rules, mergers or acquisitions which meet certain financial thresholds require competition clearance from the Competition and Consumer Protection Commission (CCPC).

As of 1 January 2019, the financial thresholds for triggering a requirement for competition clearance will be that, in the most recent financial year:

- » the aggregate turnover in the State (i.e. the Republic of Ireland) of the undertakings involved is not less than **€60 million**; and
- » the turnover in the State of each of two or more of the undertakings involved is not less than **€10 million**.

This is an increase on the current thresholds which are that, in the most recent financial year:

- » the aggregate turnover in the State of the undertakings involved is not less than **€50 million**; and
- » the turnover in the State of each of two or more of the undertakings involved is not less than **€3 million**.

The change is subject to confirmation by the Irish parliament, which is expected.

'Media mergers' as defined in section 28A of the Competition Act 2002 (as amended) are notifiable to the CCPC, and separately to the Minister for Communications, Climate Action and

Environment, for clearance regardless of the turnover of the undertakings involved.

CONTEXT

The proposed changes to the financial thresholds follow a consultation carried out by the Department of Business, Enterprise and Innovation between September and November 2017 on a number of aspects of the Irish merger control regime. In the consultation paper, the Department estimated that, based on 2015 and 2016 figures, increasing the €3 million threshold to €10 million would reduce the number of mergers and acquisitions that must be notified to the CCPC by approximately 38%. The paper also noted that the individual turnover threshold in Ireland is significantly lower than the financial thresholds in comparable jurisdictions.

COMMENT

The increase in the financial thresholds is to be welcomed. In our submission to the Department's consultation, Arthur Cox advocated for such an increase as, in our view, the current individual threshold of €3 million is too low and results in transactions of limited competitive impact falling to be notified to the CCPC for clearance. The new thresholds align the Irish regime more closely with comparable regimes in other countries with similarly sized economies.

This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

KEY CONTACTS



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